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Liaison Counsel for Plaintiffs

Honorable H. Russel Holland

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

| | | |
|--------------------------|---|----------------------------|
| In re: |) | |
| |) | |
| The EXXON VALDEZ |) | Case No. 3:89-cv-00095-HRH |
| _____ |) | (Consolidated) |
| |) | |
| THIS DOCUMENT RELATES TO |) | |
| ALL CASES |) | |
| _____ |) | |

**LEAD COUNSEL'S THIRD APPLICATION FOR AN ORDER AUTHORIZING
THE DISTRIBUTION OF FUNDS FROM THE EXXON QUALIFIED
SETTLEMENT FUND TO NATV, F00E, S01E, S03E, S04E, S01H, S03H, S04H,
S01K, S02K, S04K, S01L, AQUA, G01E, G01H, G01K, G34E, G34K, H01E, H01K,
L12E, L21E, RPRO AND NATC CLAIMANTS AND THEIR ATTORNEYS**

1 This is the third of several applications for authority to distribute portions of the
 2 \$383,349,750.00 plaintiffs received from Exxon in late July, 2008, as a partial payment
 3 on the punitive damages judgment entered by the United States Supreme Court. The
 4 issues involving costs and interest continue to be unresolved in the Ninth Circuit.
 5 Nonetheless Lead Counsel wishes to continue to distribute as much of the amount
 6 received as reasonably possible. On November 24, 2008 (Clerk’s Docket No. 8920-2)
 7 and February 12, 2009 (Clerk’s Docket No. 8975) this Court approved the distribution of
 8 approximately \$210 million of the funds received to approximately 17,000 claimants.
 9

10 This motion addresses claimants in two broad categories: (1) claimants with
 11 multiple liens in the same thirteen categories¹ where claimants have now or are being
 12 paid who had no liens or a single lien; and (2) claimants in twelve of the remaining
 13 categories² who have no liens, levies, assignments or other impairment on their claims.
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 17 ¹ The thirteen categories are: Native (NATV), Native Opt Out Settlement Class (NOOS), the
 18 Prince William Sound 1989 Fund (F00E), Prince William Sound Salmon Seine (S01E), Prince
 19 William Sound Salmon Drift (S03E), Prince William Sound Salmon Set Net (S04E), Cook Inlet
 20 Salmon Seine (S01H), Cook Inlet Salmon Drift (S03H), Cook Inlet Salmon Set Net (S04H),
 21 Kodiak Salmon Seine (S01K), Kodiak Salmon Beach Seine (S02K), Kodiak Salmon Set Net
 22 (S04K) and Chignik Salmon Seine (S01L), though for the Native Opt Out Settlement Class
 23 (NOOS) claim category, there are no claimants that have multiple lien issues at this time.

24 ² The twelve new categories are: Aquaculture Association (AQUA), Prince William Sound
 25 Herring Seine (G01E), Cook Inlet Herring Seine (G01H), Kodiak Herring Seine (G01K), Prince
 William Sound Roe Herring Drift (G34E), Kodiak Herring Gill Net (G34K), Prince William
 Sound Food & Bait Herring (H01E), Kodiak Food & Bait Herring (H01K), Prince William
 Sound Roe Pound (L12E), Prince William Sound Wild Kelp Harvest (L21E), Real Property
 (RPRO), and Native Corporation (NATC).

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1 Consistent with the methodology in the prior application which distributed
 2 payments to persons whose entire claim went directly to the claimant, or who had a single
 3 lien holder or alternate payee, we have determined that there are approximately 1628
 4 claimants with multiple lien holders or alternate payees who are otherwise identified
 5 (with a good address for those who are alive, and for those whose are deceased, proper
 6 probate paperwork) whose claims have not yet been paid in the first thirteen claim
 7 categories.³ The gross amount of payments to or on behalf of these claimants (including
 8 19.4% attorneys' fees) is \$ 21,393,387.42. The list of claimants who will either receive
 9 payments or on whose behalf payments will be made to other parties, and the total gross
 10 amounts of their claims is set out in Exhibit A to Mr. Sarko's Declaration.⁴
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14 With respect to the proposed distribution to the twelve new categories of the
 15 portion of the \$383,349,750.00 to which they are entitled, Mr. Sarko performed the same
 16 analysis as was discussed in paragraphs 4 – 14 of his October 29, 2008 declaration. He
 17 calculated that the amounts that should go to the twelve new claim categories that are the
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 21 ³ Declaration Of Lynn Lincoln Sarko In Support Of Lead Counsel's Third Punitive Damages
 22 Application For An Order Distributing Exxon Qualified Settlement Funds To NATV, F00E,
 23 S01E, S03E, S04E, S01H, S03H, S04H, S01K, S02K, S04K, S01L, AQUA, G01E, G01H,
 24 G01K, G34E, G34K, H01E, H01K, L12E, L21E, RPRO and NATC Claimants And Their
 25 Attorneys, (Sarko Declaration), Par. 3-4.

⁴ Sarko Declaration, Par. 4.

1 subject of this application as set out in Exhibit B to his declaration, total approximately
2 \$47,529,727.96 of the \$246,263,667.34 available to all fifty-one categories.⁵
3

4 There are approximately 3906 claims that fall within the twelve new claim
5 categories this application covers. To facilitate an orderly distribution of this portion of
6 the Punitive Damages recovery as expeditiously as possible, claimants listed in Exhibit C
7 are those whose claims are *not* currently encumbered by liens, levies or assignments or
8 any other impairment. Because claimants' files with liens, levies, assignments or further
9 impairments require detailed individual attention, we anticipate filing subsequent requests
10 for such claimants in these twelve categories. There are approximately 2521 claims that
11 are currently unimpaired and are listed on Exhibit C. The dollar figures provided in
12 Exhibit C are gross dollar allocations to claimants in the twelve new claim categories
13 prior to any deductions for attorneys' fees. The total gross dollar amount listed in Exhibit
14 C is \$31,278,012.03.⁶
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17 This submission does not cover any of the remaining claim categories, which will
18 be covered in future applications.
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24 ⁵ Sarko Declaration, Par. 5.

25 ⁶ Sarko Declaration, par. 6.

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Respectfully submitted this 25th day of March 2009.

s/ David W. Oesting
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Certificate of Service

The undersigned certifies that on March 25, 2009, a true and correct copy of the foregoing LEAD COUNSEL'S THIRD APPLICATION FOR AN ORDER AUTHORIZING THE DISTRIBUTION OF FUNDS FROM THE EXXON QUALIFIED SETTLEMENT FUND TO NATV, F00E, S01E, S03E, S04E, S01H, S03H, S04H, S01K, S02K, S04K, S01L, AQUA, G01E, G01H, G01K, G34E, G34K, H01E, H01K, L12E, L21E, RPRO AND NATC CLAIMANTS AND THEIR ATTORNEYS was served on the following attorneys or parties of record by the court's ECF system:

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LEAD COUNSEL'S THIRD APPLICATION FOR AN ORDER AUTHORIZING THE DISTRIBUTION OF FUNDS FROM THE EXXON QUALIFIED SETTLEMENT FUND TO NATV, F00E, S01E, S03E, S04E, S01H, S03H, S04H, S01K, S02K, S04K, S01L, AQUA, G01E, G01H, G01K, G34E, G34K, H01E, H01K, L12E, L21E, RPRO AND NATC CLAIMANTS AND THEIR ATTORNEYS - 5